

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Jesi Jackson,)	Civil Action No.: 8:08-671-GRA-BHH
)	
	Plaintiff,)
)	
vs.)	
)	<u>REPORT AND RECOMMENDATION</u>
Ray Nash,)	<u>OF MAGISTRATE JUDGE</u>
)	
Defendant.)	

The plaintiff brought this action seeking relief pursuant to Title 42, United States Code, Section 1983. On June 19, 2008, the defendant filed a motion for summary judgment. On June 20, 2008, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), an order was mailed to the plaintiff's last known address at the Dorchester County Detention Center, 100 Sears Street, St George, SC 29477, advising him of the summary judgment procedure and the possible consequences if he failed to respond adequately. The envelope containing this order was returned to the court as the plaintiff is apparently no longer incarcerated at the Dorchester County Detention Center.

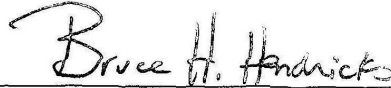
The record reveals that the Order advising the plaintiff of his responsibility to notify the court in writing if his address changed was also returned as undeliverable.

A complaint may be dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute and/or failure to comply with orders of the court. *Ballard v. Carlson*, 882 F.2d 93 (4th Cir.1989). In considering whether to dismiss an action pursuant to Rule 41(b), the court is required to consider four factors:

- (1) the degree of plaintiff's responsibility in failing to respond;
- (2) the amount of prejudice to the defendant;
- (3) the history of the plaintiff in proceeding in a dilatory manner; and,

(4) the existence of less drastic sanctions other than dismissal.

Davis v. Williams, 588 F.2d 69 (4th Cir.1978). As the plaintiff has failed to respond to the defendants' summary judgment motion, it appears the plaintiff no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed for lack of prosecution.

A handwritten signature in cursive script, reading "Bruce H. Hendricks", written in black ink.

BRUCE H. HENDRICKS
UNITED STATES MAGISTRATE JUDGE

July 7, 2008

Greenville, South Carolina